

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	2208.05
COMPLAINT INVESTIGATOR:	Joe Bear
DATE OF COMPLAINT:	January 21, 2005
DATE OF REPORT:	February 18, 2005
REQUEST FOR RECONSIDERATION:	yes/not revised
DATE OF CLOSURE:	March 16, 2005

COMPLAINT ISSUES:

Whether the South Harrison Community Schools and the Harrison County Special Education Cooperative violated:

511 IAC 7-27-7(a) by failing to implement the student's individualized education program (IEP) as written, specifically by failing to provide speech/language services required by the IEP.

FINDINGS OF FACT:

1. The Student has been identified as having autism spectrum disorder and a communication disorder, and has been determined eligible for special education and related services.
2. The Student's current IEP calls for the Student to receive direct speech/language services for 20 minutes, three times per week, with an additional 30 minutes of consultation provided to the teacher of record (TOR) or teacher of service (TOS). The IEP states that "special services will begin/continue on or about 8/16/04 through 5/7/05."
3. The Complainant alleges that speech therapy is not taking place during the speech therapy sessions. The Complainant provided audiotapes and corresponding transcripts from four speech therapy sessions, which were meant to document that speech therapy was not taking place during the sessions. The tapes were created with a tape recorder that the Complainant had concealed inside the Student's backpack.
4. The School provided therapy notes from the Speech Clinician for August 27, 2004, through January 21, 2005. All dates scheduled for speech therapy during this period are accounted for, except for days on which the Student or Speech Clinician was absent, professional development for instructional staff or a parent conference was held, or a holiday was recognized. One speech therapy session was canceled in January 2005 due to a snow day. In the therapy notes the Speech Clinician wrote about what happened during individual and group speech therapy sessions.
5. A progress report dated October 18, 2004, states that the Student was actually receiving 90 minutes of speech therapy per week, and that consultation services were provided to a teacher and the occupational therapist.
6. The school year began on August 16, 2004, a Monday. Speech therapy began on August 27, 2004, the next Friday.

7. The Speech Clinician was absent five times from August 27, 2004, through January 21, 2005, due to illness, a doctor appointment, and a funeral.

CONCLUSIONS:

1. The audiotapes described in Finding of Fact #3 cannot be considered documentation that speech therapy did or did not take place. There is no quality control or chain of custody to document what was recorded. Findings of Fact #4 and #5 indicate that speech therapy did take place as scheduled. Finding of Fact #7 indicates that the Speech Clinician was absent five days from August 27, 2004, through January 21, 2005, which is not an exceptional number of absences or a denial of a free appropriate public education (FAPE). However, Findings of Fact #2 and #6 indicate that speech therapy did not begin "on or about 8-16-04," as the IEP requires. Therefore, a violation of 511 IAC 7-27-7(a) is found.

The Department of Education, Division of Exceptional Learners, requires corrective action based on the Findings of Fact and Conclusions listed above.

The South Harrison Community Schools and the Harrison County Special Education Cooperative shall:

Convene the Student's case conference committee (CCC) to devise a plan for compensatory services to assist in achieving the goals and objectives listed in the IEP and to make up the five speech therapy sessions missed between August 16 and August 27, 2004.

Documentation of compliance (consisting of the CCC Report, including a plan of compensatory services) shall be submitted to the Division by March 28, 2005.